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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,622	08/25/2003	Jon Claude Russell Bennett	D03056 03	4358

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Motorola, Inc.
Law Department
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EXAMINER

HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2416

NOTIFICATION DATE	DELIVERY MODE
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02/20/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary	Application No. 10/648,622	Applicant(s) BENNETT, JON CLAUDE RUSSELL	
	Examiner CLEMENCE HAN	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-37, 40 and 41 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 10, 14, 38 and 39 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7-9, 11-13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: “receiving, by a second remote network device” in line 6 should be replaced with “receiving, by a first remote network device”, see the deleted preamble in claim 10. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-3, 6, 10, 14, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriarty (US Pub.2002/0161755) in view of McGregor (IPMP draft-mcgregor-ipmp-00.txt).

Regarding claim 1 and 38, Moriarty teaches a method for performing a remote test of a link between a first remote network device and a second remote network device by a measurement host comprising: transmitting (step 42 in Figure 4) from the measurement host (Sender 1 in Figure 1) to the first remote network device (Border device 3 in Figure 1) an performance measurement packet requesting a measurement test of the link between the first remote network device (Border device 3 in Figure 1) and the second

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remote network device (Recipient 2 in Figure 1), wherein the measurement host (Sender 1 in Figure 1) is remote from both the first remote network device (Border device 3 in Figure 1) and the second remote network device (Recipient 2 in Figure 1); receiving by the first remote network device said performance measurement test request packet (step 44 in Figure 4); and performing a measurement test of the link between the first remote network device and the second remote network device (step SS5 in Figure 4 and step 16 in Figure 3). Moriarty, however, does not teach the performance measurement packet as Internet Protocol Measurement Protocol (IPMP) packet. McGregor teaches the performance measurement packet as IPMP packet. It would have been obvious to one skilled in the art to modify Moriarty to use IPMP packet to measure performance as taught by McGregor in order to avoid denial of service attack (page 1 Abstract section third paragraph).

Regarding claim 2, Moriarty teaches sending (step SS5 in Figure 4) an performance measurement packet 20 to the second remote network device (Recipient 2 in Figure 1) by the first remote network device (Border device 3 in Figure 1).

Regarding claim 3, Moriarty teaches sending a result of the measurement test (response packet 24) to the measurement host (Sender 1 in Figure 1) from the first remote network device.

Regarding claim 6, Moriarty teaches constructing (Step SS5 in Figure 4) a performance measurement packet for the second remote network device (Recipient 2 in Figure 1).

Regarding claim 10 and 39, Moriarty teaches a method for processing an performance measurement reply packet (Response Packet 24 in Figure 2), said method comprising: receiving, by a first remote network device (Border device 3 in Figure 1), the performance measurement reply packet resulting from an performance measurement packet sent (step SS5 in Figure 4) by a first remote network device (Border device 3 in Figure 1) to the second remote network device (Recipient 2 in Figure 1) in response to an performance measurement packet 20 previously received by the first remote network device and sent from a measurement host (Sender 1 in Figure 1), wherein the measurement host is remote from both the first remote network device and the second remote network device; receiving said performance measurement reply packet (step 18 in Figure 3); and forwarding (step 18 in Figure 3) information included in the performance measurement reply packet to the measurement host (Sender 1 Figure 1). Moriarty, however, does not teach the performance measurement packet as Internet Protocol Measurement Protocol (IPMP) packet. McGregor teaches the performance measurement packet as IPMP packet. It would have been obvious to one skilled in the art to modify Moriarty to use IPMP packet to measure performance as taught by McGregor in order to avoid denial of service attack (page 1 Abstract section third paragraph).

Regarding claim 14, Moriarty teaches creating a performance measurement redirect reply packet (Border device 3 receives reply packet from Recipient 2 and redirect it to Sender 1, see [0027] and [0045]).

Allowable Subject Matter

4. Claim 18-37, 40 and 41 are allowed.
5. Claim 4, 5, 7-9, 11-13 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claim 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENCE HAN whose telephone number is (571)272-3158. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2416

/C. H./
Examiner, Art Unit 2416